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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,732	11/09/2001	Sam H. Hay	HAYPAT7	7367

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MARK CLODFELTER
555 SPARKMAN DRIVE
SUITE 1602D
HUNTSVILLE, AL 35816

EXAMINER

CHOOBIN, BARRY

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/02/2005 have been fully considered but they are not persuasive.

As to claim 1, applicant argues that the cited prior art fails to teach or fairly suggest using plurality of algorithms to statistically determine a plurality of parameters (page 2 of remarks).

The Examiner disagrees. Hay et al discloses plurality statistical operations and summing the results (column 18, lines 21-63 and fig.12a-12b).

Please note that by definition much of ordinary arithmetic as traditionally taught consists of algorithms involving the fundamental operations of addition, subtraction, multiplication, and division. An example of an algorithm is the common procedure for division, e.g., the division of 1,347 by 8, in which the remainders of partial divisions are carried to the next digit or digits; in this case the remainder of 5 in the division of 13 by 8 is placed in front of the 4, and 8 is then divided into 54.

Accordingly, the Examiner believes that the claim 1 of instant application is anticipated by the cited prior art.

As to independent claim 14, applicant's amended claim 14 relies upon performing statistical calculations using a plurality statistical algorithms on each retina reflex.

As addressed above said limitation is disclosed in cited prior art.

As to independent claim 16, applicant claims that the cited reference fails to disclose "series of statistical calculations" and further claims, "the specification necessarily informs the proper construction of the claim".

The Examiner disagrees. As to "series of statistical calculations" please refer to same evidence presented above for claims 1 and 14.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., series of statistical calculations as defined by applicant's specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Currently claims 1-18 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 6, 7, 9, 10, 13, 14, 16, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by hay et al (US 5,632,282).

As to claim 1, Hay et al disclose a method for determining optical status of each individual eye of a pair of eyes of a subject comprising the steps of (fig.3):

A) Imaging both of said pair of eyes using a digital imaging device while utilizing a standard set of uniform imaging conditions and visual tasks while performing said imaging (column 12, lines 11-21),

B) Isolating a retinal reflex from each of said pair of eyes (column 12, lines 11-21),

C) Applying a series of algorithms to statistically determine a plurality of parameters related to each said retinal reflex (fig.12a-b).

As to claims 5 and 6, Hay discloses comparing said plurality of parameters from each said retinal reflex taken from said individual to a like set of parameters taken from a normal eye (see abstract lines 4-7).

As to claim 7, Hay discloses comparing said plurality of parameters from one of said retinal reflexes taken from said individual with parameters from the other of said retinal reflexes taken from said individual (see abstract lines 8-10).

As to claims 9, 10, Hay et al disclose superimposing said plurality of parameters from one of said retinal reflexes taken from said individual over said parameters taken from a normal retinal reflex (column 15, lines 35-65 and fig. 9c).

As to claim 12, Hay et al disclose selecting said algorithms based on their predictivity of eye disorders (fig. 12c).

As to claim 13, Hay et al disclose selecting said algorithms based on their predictivity of ocular balance between said retinal reflexes (fig.2b).

Claims 14 and 16-17 are similarly analyzed and rejected.

Allowable Subject Matter

4. Claims 2-4, 8, 11, 12, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 18 is indicated allowable. The following is a statement of reasons for the indication of allowable subject matter: the cited prior art fails to teach or fairly suggest a method comprising the steps of summing values of those identical algorithms found in said clinical sub-groups to obtain statistical measurements and then performing a statistical analysis on said statistical measurements to obtain statistical data, utilizing said statistical data to define features in graphic format that characterizes values of the sub-group with a particular disease, in combination with other elements of independent claim 18.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

CONTACT INFORMATION

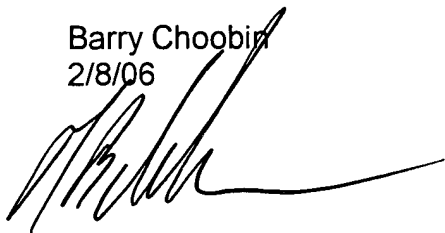
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 571-272-7447. The examiner can normally be reached on M-F 7:30 AM to 18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

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Barry Choobin
2/8/06

A handwritten signature in black ink, appearing to read 'Barry Choobin', with a long horizontal flourish extending to the right.